IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 15775 of 2007(C)

PETITIONER:

MRS.HONEY BENNY, AGED 40,
W/O.BENNY, THEICKANATH HOUSE, CHENGAMANAD P.O.,
ALUVA TALUK, PIN-683 578.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY TO THE GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SPECIAL TAHSILDAR (LA),
COCHIN REFINERIES LTD., VYTTILA,
TRIPUNITHURA.

3. KERALA INDUSTRIAL INFRASTRUCTURE
DEVELOPMENT CORPORATION, KINFRA HOUSE,
T.C.31/2312, SASTHAMANGALAM, TRIVANDRUM-695 010,
A STATUTORY BODY OF GOVERNMENT OF KERALA,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY GOVT.PLEADER SRI.D.ANIL KUMAR -R1 & R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

W.P.(C) No. 15775 of 2007

Dated this the 9th day of August 2007

JUDGMENT

Petitioner is the owner of 42 cents of land comprised in Resurvey No. 198/8 of Block 7 of Changamanad village. The land was notified to be acquired for a public purpose. Notification under Section 4(1) of the L.A. Act was issued on 20-07-2005. It was averred that though Section 4(1) notification was published in the Deshabhimani daily on 29-7-2005 , Section 6 declaration was published in the Mathrubhumi daily only on 23-12-2006. It is averred that since Section 6 declaration was not published within one year from the date of Section 4(1) notification the entire proceedings lapsed and it has to be declared so.

2. The special Tahsildar has filed a counter- affidavit stating that in addition to the publication of the notification in the Deshabhimani daily on 29-7-2005, it was published in Nedumbassery and Chengamanad Village Office and in Aluva Taluk Office. It was further contended that it was published in the locality on 29-11-2005. A true copy of the publication in the locality is produced as Ext. R1(a). It was averred that Section 6 declaration was published in the Kerala Gazette on 15-11-2006 i.e to say within one year from 29-11-2005. Hence it was perfectly within the time allowed by law.

3. The petitioner filed a reply affidavit contending that the notice

was published in the locality on 29-11-2005 is false and the date "29-11-2005 and subsequent entries" in the last page of Ext.R(1) (a) are only subsequent insertions to get over the consequence of the delay in making Section 6 declaration. It was averred that there is no publication of any notification between 29-10-2005 to 29-11-2005 in the locality and signatures were subsequently affixed to make it appear that section 6 declaration was published within one year . To substantiate the contention the petitioner produced a photocopy of note file and copies of declarations which he obtained under the provisions of the "Right to Information Act-2005". It is submitted that on 29-10-2005 an order was passed by the Special Tahsildar to publish Section 4(1) notification in the Nedumbassery and Chengamanad Village Office and in Aluva Taluk Office but on that day there was no direction to publish any notice in the locality So, it is argued that the entries made in Ext.R1(a) are manipulated and fabricated. The learned Government Pleader made available the file for my perusal. Section 6 declaration was forwarded by the Additional Land Revenue Commissioner to the District Collector on 14-11-2006. But what is stated in the letter was that Section 6 declaration had already been made. So definitely the declaration was made prior to 14-11-2006. Of course the exact date of declaration under Section 6(1) is not available from the file of the Land Acquisition Officer. It is submitted by the Government Pleader that, original of the declaration is available only in

the file of the Land Revenue Commissioner. The original file contains the signatures of 22 persons to the effect that the notice was published in the locality on 29-11-2005 . Though the petitioner raised a contention that it is a fabrication made after filing the writ petition, a perusal of file does not support that contention. It does not appear to be a subsequent fabrication for the purpose of creating evidence. The materials on record show that Section 6 declaration was made within one year from the date of publication of Section 4 (1) notification. So there is no merit in the this writ petition and the same is only to be dismissed.

In the result the writ petition is dismissed.

K.PADMANABHAN NAIR,JUDGE

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